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PREF

SUBJECT: JUVENILE HUMAN RIGHTS AT RISK IN AFGHAN CRIMINAL
JUSTICE SYSTEM

11. (SBU) SUMMARY: According to UNICEF's Chief of Child Protection, the situation for children in Afghanistan has improved only slightly, if at all, nationwide -- despite the proliferation of NGOs in-country and the volume of money channeled toward children's programs. Poverty-reduction programs are apparently not reaching many financially insecure families, creating incentives for juvenile crime and exploitation. The juvenile justice system, while making some improvements, often denies children basic rights. This report is the first in a series of cables on children at risk in Afghanistan. End Summary.

12. (U) Poloffs met with outgoing UNICEF Chief of Child Protection Noriko Izumi on September 30 and incoming Chief Helen Schulte on November 2 to discuss the issues on the ground regarding child protection in Afghanistan. Child arrests, particularly those by the National Directorate of Security (NDS), remain a key UNICEF concern. At any given time, 20-30 children are being detained in the general juvenile population for "crimes against national security," including suspected suicide bombing. (NOTE: The detention of children for national security issues contravenes the spirit of the Afghan Juvenile Code, which presumes that children cannot be held to the same standard as adults. END NOTE.) Ironically, NDS child arrests are a means of tracking insurgency groups' recruitment patterns. The Taliban allegedly offer high pay to recruits, including offers to feed the children's families, and they may be targeting internally displaced persons in camps. Only anecdotal evidence exists for this claim, however, as UN monitoring has been impossible given the insecurity and inaccessibility of certain sections of the country.

13. (U) Background: The law recognizes that children in custody deserve certain legal protections: in practice, their basic rights and many aspects of due process are often denied, including presumption of innocence, the right to be informed of charges, access to defense lawyers, and the right to not be forced to confess. Detention is supposed to function as a last resort, and the juvenile rehabilitation centers (JRCs) are to house only convicted child prisoners. But in practice, children are routinely detained pre and post-trial; some are treated as adults; and some released into the general prison populations of Ministry of Justice (MOJ)-run facilities. Many of the juveniles in the criminal justice system are victims rather than perpetrators of crime, particularly crimes of sexual exploitation. Some children are allegedly imprisoned as a family proxy for the actual perpetrator, who may be a breadwinner.

14. (U) The Juvenile Code regards children at risk, children in need of care and protection, and children in conflict with the law, as equally under their purview. One potential byproduct of such treatment is the unnecessary institutionalization of children, but according to Izumi, some juvenile detainees intentionally commit crimes in order to take advantage of the shelter, food, and education the juvenile detention centers offer. Yet the conditions of the

JRCs are troubling: only two of the country's 30 JRCs are owned; the rest are rented, and are thus in serious disrepair. (NOTE: Four provinces lack JRCs: Panjshir, Nuristan, Uruzgan, and Paktika. End note.) The Kabul JRC is severely overcrowded.

15. (U) Some improvements have occurred: The Ministry of Labor, Social Affairs, Martyrs and the Disabled (MoLSAMD) has placed one social worker in the Juvenile Criminal Investigation Department in Kabul to work alongside police and prosecutors. This is a small but important start in recognizing extenuating circumstances for juvenile crime, particularly petty crimes such as food theft. A June 2008 Memorandum of Understanding (MOU) between MoLSAMD, the Ministry of Interior, and the Attorney General's Office, currently being revised to include the Supreme Court and the MOJ, makes official the role of social workers in child protection. On the basis of this MOU, UNICEF developed a social inquiry report (SIR) summarizing an arrested child's socioeconomic background so that the prosecution can consider relevant family circumstances. Since June 2009, the SIR has been used in every new juvenile case in nine provinces, with the result of a significant decrease in sentencing to residential JRCs.

16. (U) Izumi states that a more substantial social welfare system for families is required; the government appears to recognize this need. However, a considerable gap remains in the number of trained social workers, a profession which is not yet embraced nationally. Social workers lack certification, and an apparent cultural mistrust of social work complicates the situation. Formalizing the profession,

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including monitoring and regulatory mechanisms, is therefore crucial in order to expand child protection activities.

17. (U) Family livelihood opportunities remain the central source of child protection problems, in Izumi's view. A recent household income survey found that households on the western border earned one-fifth the national income; the incentives for juvenile crime are thus high. (NOTE: Supporting Izumi's point, a 2007 AIHRC study illustrates the role of poverty in juvenile crime in Afghanistan: of children AIHRC surveyed in JRCs, 55 percent rated their family "poor" or "very poor," 69 percent reported that they had been working prior to their arrest; 72 percent of boys had not completed primary school; and 34 percent of offenses were property-related. Further, "theft" is the second highest category of arrest, after "ethical crimes". END NOTE.)

18. (U) Izumi believes that poverty-reduction programs cannot reach the families most desperately in need; the poorest families often may not qualify, as they are "too risky" to qualify for micro-finance programs or "too unstable" to qualify for skills training. (NOTE: Microfinance programs typically require evidence of creditworthiness with criteria that impoverished individuals and families often lack: a social network through which a loan group can be formed; previous entrepreneurial experience; property documents; or the recommendation of a community leader or shura. Thus, for example, internally-displaced persons are often ineligible. END NOTE.) Izumi said the international community must accept the blame in these scenarios for their unwillingness to commit to the neediest families, and thus potentially exacerbating the very cycle of poverty they seek to break. Further, Izumi believes that Afghanistan's social network is fraying and chronically-poor families are increasingly vulnerable. Despite the proliferation of NGOs in country, the volume of money channeled toward children's programs, and NGO efforts to reach the neediest, the social class gap is widening, and children are increasingly at risk.

19. (SBU) COMMENT: Embassy discussions with other NGOs involved in child-protection issues confirm Izumi's general outlook: an increasing number of children are vulnerable due

to a difficult economic environment that compels dramatic solutions to financial problems, including crime. Once in the criminal justice system, youth are further at risk since the justice system, reflecting the culture at large, is only now beginning to acknowledge the economic roots of juvenile crime. Further, the system functions in practice with a presumption of guilt and a lack of recognition of the different needs of youth. End Comment.

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